



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 14 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James L. Noles, Jr., Partner
Barze Taylor Noles Lowther, LLC
Lakeshore Park Plaza
2204 Lakeshore Drive, Suite 330
Birmingham, Alabama 35209

RE: Supplemental Information Request 308-018-001

Dear Mr. Noles:

The U.S. Environmental Protection Agency, Region 4, alleges that your client, Elmore Sand & Gravel, Inc., has discharged dredged and/or fill material to waters of the United States, including wetlands, on an approximately 1400-acre tract, known as the Scott Pit, north and south of Marion Spillway Road, north of the city of Elmore in Elmore County, Alabama, near 32.568° north latitude and 86.342° west longitude ("Site"). The EPA appreciates the information Elmore Sand & Gravel, Inc. provided in response to the EPA's earlier request seeking information regarding compliance at the Site with section 404 of the Clean Water Act (CWA), 33 U.S.C. § 1344, and Elmore Sand & Gravel, Inc. need not reproduce any information previously provided. The EPA believes that further information gathering is necessary. Therefore, pursuant to its authority under section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby notifies Elmore Sand & Gravel, Inc. of its intention for its representatives to visit the Site from November 28 – 29, 2018 or other dates mutually agreed-upon by the parties. Additionally, pursuant to section 308 of the CWA, 33 U.S.C. § 1318, the EPA requests that Elmore Sand & Gravel, Inc. provide the information set forth in Enclosure A within thirty (30) days of receipt of this letter. The response should be sent to:

Mr. Mike Wylie
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
Marine Regulatory and Wetlands Enforcement Section
61 Forsyth Street S.W.
Atlanta, Georgia 30303

All information submitted must be accompanied by the following certification signed by a duly authorized company official:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Failure to provide a full and complete response to this information request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to 33 U.S.C. § 1319 and 18 U.S.C. § 1001.

If you believe that any of the requested information is Confidential Business Information (CBI), you may assert a business confidentiality claim with respect to such information in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.* Sending documents claimed as CBI electronically to the EPA is done at the risk of the claimant, as the EPA does not have the capability to encrypt electronic information. The EPA requests that any such information be physically mailed to the address provided. If you do not assert a CBI claim, the EPA may make information submitted under this request available to the public without further notice to you. Additional information regarding the EPA's requirements for confidential treatment of information can be found in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.*

If you have any questions concerning this matter, please contact Mr. Patrick Johnson of the EPA Region 4 Office of Regional Counsel at (404) 562-9574.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Thomas McGill', is written over a light blue horizontal line.

Thomas McGill

Chief

Oceans, Wetlands and Streams Protection Branch

Enclosures

cc: Mr. Lemuel Baylis Carnes, V, General Manager, Elmore Sand & Gravel, Inc.
Ms. Cindy House-Pearson, TTL, Inc.
Ms. Catherine McNeill, ADEM

EPA SECTION 308 INFORMATION REQUEST

Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this information request.
2. Precede each answer with the number of the Question to which it corresponds.
3. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
4. You must provide the information requested even though you may contend that it includes confidential business information (CBI) such as trade secrets. You may, if you desire, assert a CBI claim covering part or all of the information requested, under 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words "trade secret," "proprietary," or "company confidential" stamped or typed on it. Information covered by such claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth in the regulation set forth above. **If you do not assert a confidentiality claim, when you submit your information to the EPA, the EPA may disclose the information to the public without further notice to you.** You should read the above cited regulations carefully before asserting a CBI claim, since certain categories of information are not properly the subject of such a claim.

Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

5. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
6. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
7. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
8. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last

known home address and home telephone number, and present or last known job title, position or business.

9. The term "identify" means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.

10. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

11. The term "Discharge Area" means the wetlands and streams that have been impacted either through filling and excavating or mechanical land clearing with side cast of dredged and/or fill material. More specifically, the Discharge Area is located within an approximately 1400-acre parcel, north and south of Marion Spillway Road, north of the city of Elmore in Elmore County, Alabama, near 32.568° north latitude and 86.342° west longitude. The Discharge Area is indicated on the enclosed Exhibits A and B.

12. The term "Site" means the parcel or parcels of land on which the Discharge Area is located and is better known as the approximately 1400-acre Scott Pit in Elmore County, Alabama.

13. The term "Work" means any land clearing activities, ditching, dredging, side casting, road construction, stream crossing construction, mechanical land clearing, piping of streams, timber harvesting, excavating, or filling activities that have occurred in wetlands or streams at the Site since you owned, controlled, or did any Work on the Site.

14. The term "you" and/or Respondent" shall mean Elmore Sand & Gravel, Inc., and/or any company, entity, or corporation that has directed work at the Site.

Questions

Please provide the EPA with the following information or documents pertaining to the Discharge Area identified in Exhibits A and B:

15. The name and address of any contractor(s), subcontractor(s), consultant(s), agent(s), or individual(s) who directed or participated in the Work at the Site not previously identified in Respondent's response to the EPA's original information request.

16. The types of equipment used to carry out the Work, and the names and addresses of the person and/or companies that own and/or operate the equipment not previously identified in Respondent's response to the EPA's original information request.
17. A description of all Work at the Site performed by Respondent, or on behalf of Respondent by its contractor(s), subcontractor(s), consultant(s), or agent(s) not previously identified in Respondent's response to the EPA's original information request.
18. A description of any Work performed at the Site by any entity other than Respondent, its contractor(s), subcontractor(s), consultant(s), or agent(s) not previously identified in Respondent's response to the EPA's original information request.
19. Any maps and engineering plans created by Respondent or on behalf of Respondent by its contractor(s), subcontractor(s), consultant(s), or agent(s) not previously identified in Respondent's response to the EPA's original information request.
20. Copies of any on-site environmental assessments, including environmental assessments of soils, vegetation or hydrology at the Site created by Respondent or on behalf of Respondent by its contractor(s), subcontractor(s), consultant(s), or agent(s) not previously identified in Respondent's response to the EPA's original information request.
21. Plans for any additional filling, excavating, or other land disturbing activities at the Site not previously identified in Respondent's response to the EPA's original information request.
22. Copies of notes regarding any written or verbal communication with Federal, State, or local agencies regarding the Work not previously identified in Respondent's response to the EPA's original information request.
23. Copies of any contracts covering Work at the Site not previously identified in Respondent's response to the EPA's original information request.
24. Please identify the individual or individuals who prepared the responses to this Information Request.

At the end of your response to this information request, please include the following certification:

I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA.

Name
Title

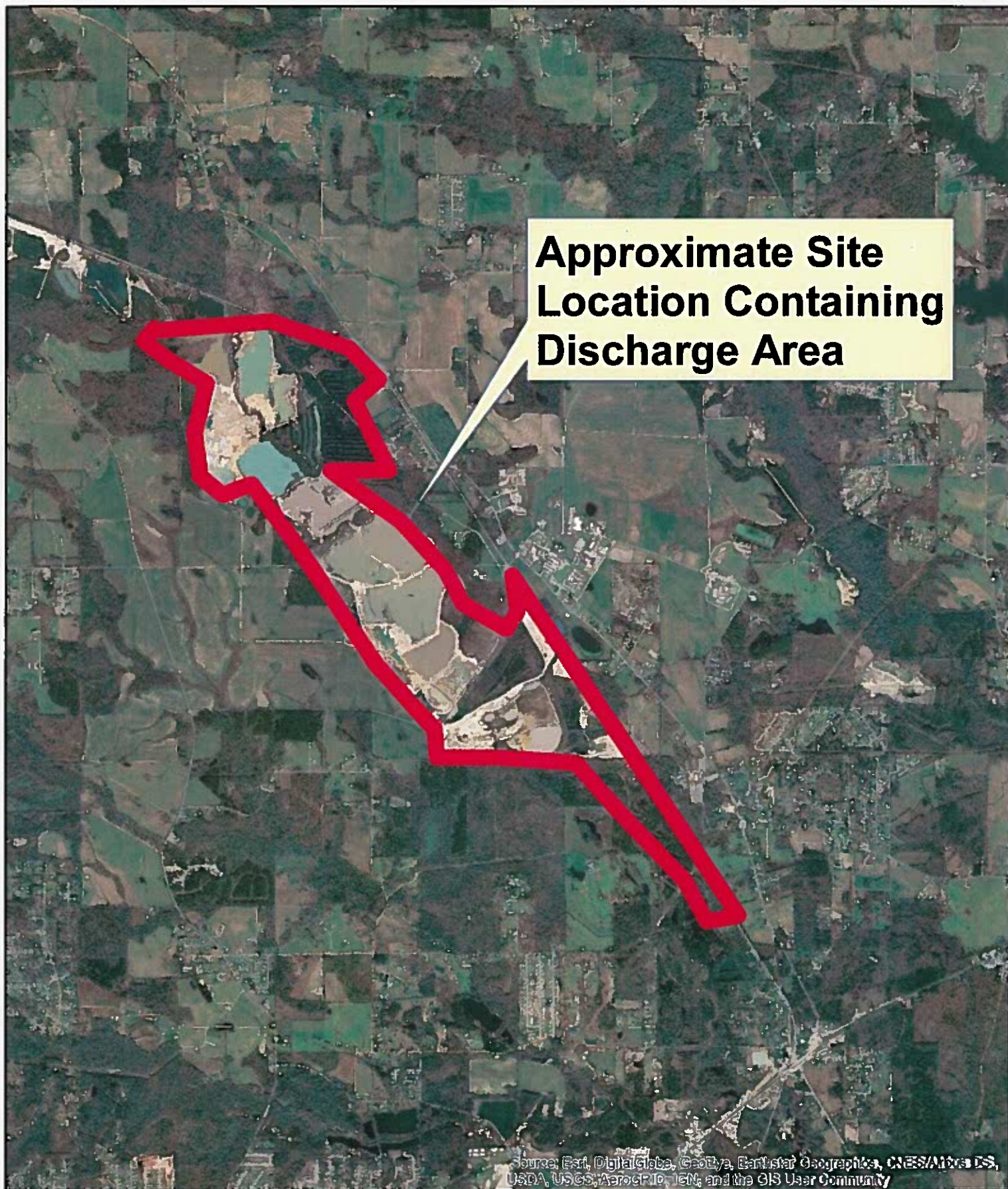


EXHIBIT A
Elmore Sand & Gravel, Inc.
Elmore, Alabama

0 0.5 1 2 Miles



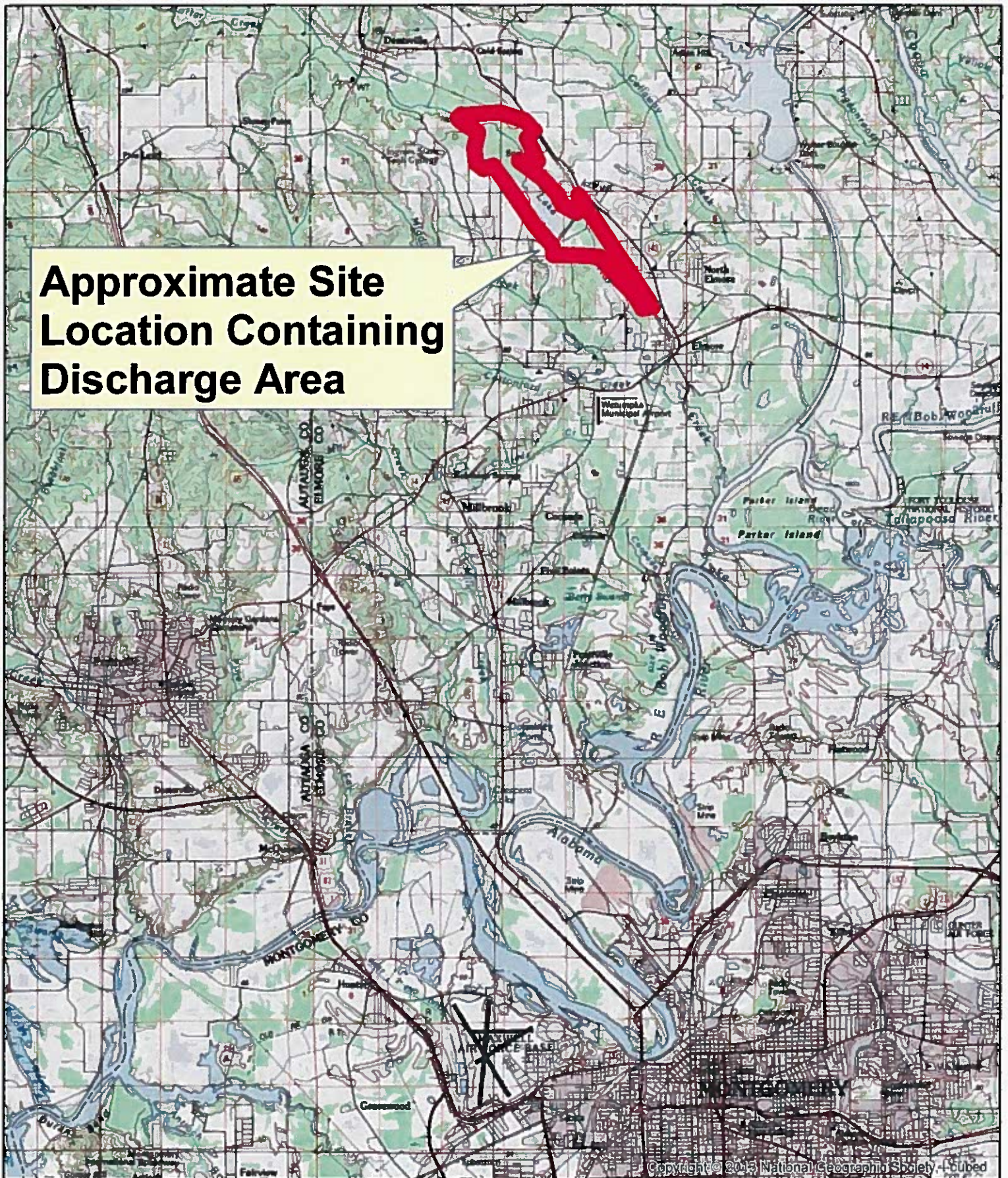


EXHIBIT B
Elmore Sand & Gravel, Inc.
Elmore, Alabama

0 1.5 3 6 Miles



